

Senate Study Bill 1191 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON SENG)

A BILL FOR

1 An Act relating to the licensure of persons owning or operating
2 pet cemeteries and pet crematoriums, establishing standards
3 and fees, making an appropriation, and providing for
4 criminal penalties.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. LEGISLATIVE FINDINGS.

2 1. The general assembly finds that the relationships that
3 humans develop with other members of the animal kingdom that
4 are taken into homes and maintained as pets are unique and
5 special. These relationships can enrich lives and increase
6 happiness. Even after the death of a pet, human attachment to
7 the memory of the pet often remains very strong and many people
8 feel the need to memorialize the love felt for the animal by
9 burying the pet in a pet cemetery. Pet cemeteries and their
10 owners and operators have a special responsibility to customers
11 who have entrusted pet remains to them. These pet cemeteries
12 have a duty to act in an ethical and lawful manner to prevent
13 grieving pet owners from experiencing further emotional pain
14 or financial manipulation. Perpetrations of fraud against
15 grieving pet owners are unconscionable.

16 2. The general assembly further finds that the people
17 of this state have a vital interest in the establishment,
18 maintenance, and preservation of pet cemeteries and pet
19 crematoriums and the proper operation of the businesses and
20 individuals that own and manage the business. This chapter is
21 determined to be an exercise of the police powers of this state
22 to protect the well-being of citizens of this state, to promote
23 the public welfare, to promote the health of the public, and
24 to prevent pet cemeteries and pet crematoriums from falling
25 into disrepair and dilapidation and becoming a burden upon the
26 community.

27 Sec. 2. NEW SECTION. 523J.1 Definitions.

28 As used in this chapter, unless the context requires
29 otherwise:

30 1. "*Commissioner*" means the commissioner of insurance or the
31 commissioner's designee.

32 2. "*Entombment*" means the placement of a pet in a grave or
33 tomb.

34 3. "*Individual burial*" means any of the following:

35 a. The interment of a single pet's remains in a separate

1 grave.

2 *b.* The interment of more than one pet in a grave with the
3 written consent of the pet owner.

4 4. "*Individual cremation*" means the cremation of a single
5 pet's remains in a separate receptacle that allows the pet's
6 cremains to remain separate from the cremains of other pets.

7 5. "*Inurnment*" means the placement of pet cremains in a
8 grave, urn, or tomb.

9 6. "*Licensee*" means a person licensed to engage in the
10 business of operating a pet cemetery or pet crematorium under
11 this chapter.

12 7. "*License fee and renewal fee*" means the fees required to
13 accompany an application for issuance of any license, including
14 any temporary, apprentice, or renewal license, pursuant to this
15 chapter.

16 8. "*Mass burial*" means the interment of pet remains
17 communally in a grave containing more than one pet.

18 9. "*Mass cremation*" means the cremation of pets communally
19 in a receptacle containing more than one pet.

20 10. "*Pet*" means any domestic animal that has been adapted or
21 tamed to live in intimate association with people, including
22 but not limited to dogs, cats, rodents, fish, birds, snakes,
23 turtles, lizards, frogs, and rabbits.

24 11. "*Pet cemetery*" means any land, place, structure,
25 facility, or building provided by any person for a fee, whether
26 or not for profit, to veterinarians or members of the general
27 public for use, or reservation for use, for the permanent
28 interment or inurnment above or below ground of pet remains.
29 However, this definition shall not apply to:

30 *a.* Rendering plants regulated pursuant to chapter 189A.

31 *b.* A landfill or other disposal facility at which solid
32 waste, or its residue after treatment, is intentionally placed
33 and at which solid waste shall remain indefinitely.

34 12. "*Pet crematorium*" means any land, place, structure,
35 facility, or building provided by any person for a fee, whether

1 or not for profit, to veterinarians or members of the general
2 public for the cremation of pets. However, a pet crematorium
3 shall not provide for permanent interment or inurnment of pet
4 remains. This definition does not apply to facilities designed
5 for resource recovery or infectious medical waste incinerators,
6 both as regulated by chapter 455B.

7 13. "*Pet owner*" means the person who is listed as the owner
8 of the pet in veterinary records or pet cemetery or crematorium
9 records or the person's agent or employee. If such a pet
10 owner is a minor, a parent or legal guardian of the minor or
11 the parent's or legal guardian's agent or employee shall be
12 deemed the pet owner for the purposes of the pet disposal form
13 required in section 523J.15.

14 14. "*Veterinarian*" means a person licensed to practice the
15 profession of veterinary medicine pursuant to chapter 169.

16 Sec. 3. NEW SECTION. 523J.2 License required.

17 On and after December 1, 2013, a person shall not engage
18 for a fee in the business of operating a pet cemetery or pet
19 crematorium or represent the person as being able to do so
20 unless the person is licensed pursuant to this chapter. A
21 person licensed in accordance with this chapter may employ
22 individuals to assist in the operation of a pet cemetery or pet
23 crematorium.

24 Sec. 4. NEW SECTION. 523J.3 Authority to adopt rules —
25 powers.

26 In addition to specific authority granted elsewhere in this
27 chapter, the commissioner shall adopt administrative rules
28 pursuant to chapter 17A as are necessary to administer this
29 chapter, and issue orders as are necessary to administer this
30 chapter. Rules to be adopted shall include but are not limited
31 to the following:

32 1. To appoint an adequate number of assistants, inspectors,
33 and other employees as may be necessary to administer this
34 chapter, to prescribe duties, and to fix compensation.

35 2. To establish the form and content of applications for

1 licenses, the procedure for the application process, the
2 standards for licensure, and the disciplinary process and
3 penalties for violations of the standards of licensure.

4 3. To investigate applicants and determine their
5 eligibility for licenses under this chapter.

6 4. To keep records of all licenses issued, suspended, or
7 revoked.

8 5. To provide standards and an enforcement process for
9 operation of a facility for pet disposal for a fee, whether by
10 earth burial, entombment, inurnment, cremation, or otherwise,
11 the form and content of pet disposal forms, and registration of
12 disposals by pet cemeteries or pet crematoriums.

13 6. To enter the office, grounds, and buildings of any pet
14 cemetery or pet crematorium periodically or upon receiving a
15 complaint to determine compliance with this chapter. Local
16 boards of health shall cooperate by, upon request of the
17 commissioner, conducting the periodic inspections as well
18 as inspections pursuant to complaints to facilitate the
19 enforcement of this chapter, and the commissioner may delegate
20 authority to a local board to enforce rules and sanctions
21 adopted and imposed by the commissioner. The county shall
22 be compensated for services under this provision at a rate
23 established by rule. The costs of periodic inspections
24 shall not be charged to a licensee. However, the costs of
25 investigations of complaints may be charged to a licensee.

26 7. To conduct a financial audit of all business records,
27 trust fund records, and pet disposal forms for any pet cemetery
28 or pet crematorium.

29 8. To issue a subpoena for persons or records deemed
30 appropriate to an investigation or any other action taken
31 pursuant to this chapter.

32 9. To provide procedures to regulate, for the protection of
33 consumers, the operation of pet cemeteries and pet crematoriums
34 whose licenses to operate are suspended, revoked, or not
35 renewed.

1 Sec. 5. NEW SECTION. 523J.4 License — application.

2 1. Any person may make application to the commissioner
3 to obtain a license to engage in the business of operating
4 a pet cemetery or pet crematorium under this chapter. The
5 application form shall be provided by the commissioner and
6 shall, at a minimum, require the signature of the applicant
7 and that the applicant shall provide all of the following
8 information:

9 *a.* The name and address of the applicant as follows:

10 (1) If an individual, the name under which the business is
11 to be conducted.

12 (2) If a partnership, the name and business address of each
13 partner, and the name under which business is to be conducted.

14 (3) If a corporation, the name of the corporation and
15 the name and business address of each stockholder of the
16 corporation holding more than ten percent of the total stock.

17 *b.* The complete address or addresses where the business is
18 to be conducted.

19 *c.* A summary of all relevant experience of all persons
20 listed in paragraph "a", in the operation of a cemetery, pet
21 cemetery, crematorium, pet crematorium, or in the management of
22 funds.

23 *d.* Satisfactory evidence of good moral character.

24 *e.* Further information as the commissioner may prescribe by
25 rule.

26 2. The commissioner shall not issue a license to any person
27 who:

28 *a.* Has had a license to operate a pet cemetery or pet
29 crematorium suspended or revoked by the commissioner.

30 *b.* Has been convicted within the last five years of a felony
31 under the laws of this state involving fraud, bribery, perjury,
32 or theft, or has been convicted under the laws of any other
33 state or of the United States of a criminal offense which, if
34 committed and prosecuted in this state, would constitute a
35 similar felony under such laws of this state.

1 3. Any person who has had an application for a license
2 rejected by the commissioner may appeal pursuant to section
3 523J.8.

4 Sec. 6. NEW SECTION. 523J.5 Licenses — display — renewal
5 — duplicates.

6 1. All licenses issued pursuant to this chapter shall be for
7 a period of two years.

8 2. A license shall not be assignable or transferable except
9 as follows:

10 a. A license to conduct the business of operating a pet
11 cemetery or pet crematorium issued to an individual may be
12 assigned or transferred for the remainder of the license period
13 to a partnership or corporation if the individual is a member
14 of the partnership or an officer of the corporation at the time
15 of the assignment or transfer.

16 b. A license issued to a partnership may be assigned or
17 transferred for the remainder of the license period to any one
18 member of the partnership, provided the consent of all of the
19 other members of the partnership is obtained.

20 c. A license issued to a corporation may be assigned or
21 transferred for the remainder of the license period to any
22 officer of the corporation, provided the consent of all of the
23 other officers of the corporation is obtained.

24 3. Any application for transfer or assignment of a license
25 must be submitted to the commissioner, accompanied by the
26 documents demonstrating compliance with the requirements
27 of subsection 2. An assignment or transfer shall not be
28 effective until the license has been returned to the assignee
29 or transferee with the commissioner's approval. Fees are not
30 applicable to transfers of licenses.

31 4. A bona fide purchaser of a business licensed under
32 this chapter may continue to use the license of the seller on
33 a temporary basis from the date of the sale for conducting
34 business as follows:

35 a. The signatures of both the seller and the purchaser and

1 the date of sale are shown on the face of the license.

2 *b.* Within five days from the date of the sale, the purchaser
3 shall submit an application for a license to conduct the
4 business of operating a pet cemetery or pet crematorium.

5 *c.* The seller's license shall be valid until the purchaser's
6 license application is either granted or denied by the
7 commissioner.

8 5. A license to conduct the business of operating a pet
9 cemetery or pet crematorium issued to an individual or to a
10 partnership may be used, on a temporary basis, after the death
11 of the licensed individual or copartner by the next of kin or
12 duly appointed administrator or executor in the name of the
13 estate from the date of death of the licensed individual or
14 copartner as follows:

15 *a.* The face of the license displays, after the name of the
16 decedent, the word "deceased", the date of death, and the name
17 of the next of kin, administrator, or executor under whose
18 authority the license is being used.

19 *b.* Within thirty days of the date of death of the licensee,
20 the next of kin, administrator, or executor shall submit an
21 application for a license to conduct the business of operating
22 a pet cemetery or pet crematorium.

23 *c.* Such license shall be valid until the license application
24 of the next of kin, administrator, or executor is either
25 granted or denied by the commissioner.

26 6. A license to conduct the business of operating a pet
27 cemetery or pet crematorium shall be conspicuously posted upon
28 the premises where the licensee is engaged in the business of
29 operating a pet cemetery or pet crematorium.

30 7. Any license that has not been suspended or revoked may,
31 upon the payment of the renewal fee prescribed by this chapter,
32 be renewed for additional periods of two years, upon the filing
33 of an application for renewal on a form to be prescribed by the
34 commissioner and payment of a renewal fee.

35 *a.* Any licensee failing to file a renewal application and

1 submit the fee within forty-five days of the expiration of the
2 person's license under this chapter shall pay an additional fee
3 of sixty dollars.

4 *b.* Any licensee failing to file a renewal application and
5 submit the fee within ninety days of the expiration of the
6 person's license under this chapter shall be ineligible for a
7 license until the person shall have again met the requirements
8 of section 523J.4.

9 8. If a license issued under this chapter is lost or
10 destroyed, a licensee may, upon submission of an application
11 and payment of a fee, obtain a duplicate license upon
12 furnishing proof satisfactory to the commissioner that the
13 original license has been lost or destroyed. Each duplicate
14 license shall have the word "duplicate" stamped across the
15 front, and shall bear the same number as the license it
16 replaces.

17 9. A licensee shall give notice in writing to the
18 commissioner within thirty days of any change in address of the
19 business or residence of a licensee. The commissioner shall
20 affix an endorsement on the front of the original license as to
21 the change. A change of address by a licensee without notice
22 to and endorsement by the commissioner shall operate to cancel
23 the license.

24 Sec. 7. NEW SECTION. 523J.6 Fees — appropriation.

25 1. The fee for a license to engage in the business of
26 operating a pet cemetery or pet crematorium shall be one
27 hundred fifty dollars. For each renewal thereof, the fee shall
28 be one hundred fifty dollars.

29 2. The fee for issuing a duplicate license shall be
30 twenty-five dollars.

31 3. The fee for changing a name or address shall be ten
32 dollars.

33 4. The fees set forth in this section shall be for licenses
34 issued for the license period of two years. A reduction or
35 refund in fees shall not be provided for late renewals or

1 surrender or revocation or suspension of a license.

2 5. A municipality seeking a license to operate a pet
3 cemetery or pet crematorium shall not be charged any fees.

4 6. Notwithstanding section 8.33, moneys derived from the
5 administration of this chapter shall not revert to the general
6 fund of the state, and are appropriated to the commissioner for
7 administration, licensing, and inspections conducted pursuant
8 to this chapter.

9 Sec. 8. NEW SECTION. 523J.7 Denial of license application
10 — suspension and revocation of licenses.

11 1. An application for a license under this chapter may be
12 denied or a license to engage in the business of operating a
13 pet cemetery or pet crematorium may be suspended or revoked by
14 the commissioner for any one or more of the following causes:

15 a. Fraud or bribery in securing a license.

16 b. The making of any false statement as to a material matter
17 in any application or other statement or certificate required
18 by or pursuant to this chapter.

19 c. Incompetence in the operation of a pet cemetery or pet
20 crematorium.

21 d. Failure to display a license as provided in this chapter.

22 e. Violation of any provision of this chapter, or of any
23 rule adopted pursuant to this chapter.

24 f. Conviction of a crime involving fraud, theft, perjury,
25 or bribery, or other cause which would permit disqualification
26 upon an original application.

27 g. Failure to retain all pet disposal forms for a period of
28 two years following receipt.

29 h. Failure to comply with the duties of an owner or operator
30 of a pet crematorium as set out in this chapter.

31 i. Conviction of a violation of chapter 717B or 717C.

32 2. If a license to engage in the business of operating a
33 pet cemetery or pet crematorium is revoked, the license shall
34 not be reinstated or reissued until after the expiration of
35 a period of five years from the date of the revocation, and

1 only upon approval of the commissioner of a license application
2 pursuant to section 523J.4.

3 Sec. 9. NEW SECTION. 523J.8 **Hearing.**

4 1. Any license suspension or revocation, or the imposition
5 of any fine or reprimand, shall not be imposed until after a
6 hearing. All actions initiated by the commissioner are subject
7 to contested case proceedings and further review pursuant to
8 chapter 17A.

9 2. Any person who has had an application for a license
10 rejected shall be entitled to a hearing, contested case
11 proceedings, and further review pursuant to chapter 17A.

12 Sec. 10. NEW SECTION. 523J.9 **Violations — penalties.**

13 1. If an audit or investigation provides reasonable
14 evidence that a person has violated this chapter, or any rule
15 adopted pursuant to this chapter, the commissioner may issue an
16 order directed at the person to cease and desist from engaging
17 in such act or practice. In addition to any other penalty,
18 the commissioner may direct a licensee to pay the reasonable
19 costs of investigation of any complaint filed pursuant to this
20 chapter, unless the commissioner determines the complaint to be
21 totally without merit.

22 2. *a.* The commissioner shall notify the attorney general
23 if the commissioner finds that a business operated subject
24 to regulation under this chapter meets one or more of the
25 following grounds for the establishment of a receivership:

26 (1) Is insolvent.

27 (2) Has utilized trust funds for personal or business
28 purposes in a manner inconsistent with the requirements of this
29 chapter, and the amount of funds currently held in the trust is
30 less than the amount required by this chapter.

31 *b.* The commissioner or the attorney general may apply to the
32 district court in any county of the state for a receivership.
33 Upon proof of any of the grounds for a receivership described
34 in this section, the court may grant a receivership.

35 3. The commissioner or the attorney general may apply to

1 the district court for an injunction to restrain any licensee
2 subject to this chapter and any agents, employees, trustees,
3 or associates of the licensee from engaging in conduct or
4 practices deemed a violation of this chapter or rules adopted
5 pursuant to this chapter. Upon proof of any violation of this
6 chapter described in the petition for injunction, the court may
7 grant the injunction. The commissioner or the attorney general
8 shall not be required to post a bond. Failure to obey a court
9 order under this subsection constitutes contempt of court.

10 4. A licensee who violates any of the provisions of this
11 chapter after notice to cease and desist, or who continues
12 to engage in the business of operating a pet cemetery or pet
13 crematorium after having had the person's license suspended or
14 revoked, or who, without a license to engage in the business
15 of operating a pet cemetery or pet crematorium, directly or
16 indirectly employs, permits, or authorizes an unlicensed person
17 to engage in the business of operating a pet cemetery or pet
18 crematorium, shall upon conviction for the first offense be
19 guilty of a serious misdemeanor. If the conviction is for a
20 subsequent offense committed after the first conviction under
21 this chapter, such person shall be guilty of an aggravated
22 misdemeanor. Each violation of this chapter shall be deemed a
23 separate offense.

24 5. The commissioner or the attorney general may include the
25 costs of investigation in any request for restitution made to a
26 court hearing a criminal action brought pursuant to a violation
27 of this chapter.

28 **Sec. 11. NEW SECTION. 523J.10 Dedication of real property**
29 **for pet cemetery purposes.**

30 1. The owner of any real property used or to be used for a
31 pet cemetery shall file, or cause to be filed, in the office of
32 the county recorder of the county in which the real property is
33 located, a dedication restricting the real property to be used
34 only for purposes as are usual and customary for the operation
35 of a pet cemetery. The owner of the real property shall

1 additionally file a certified copy of the dedication, together
2 with notation of the date, time, book, and page of filing by
3 the county recorder with the commissioner. The filing with the
4 commissioner shall additionally include a copy of a survey map
5 and appropriate zoning approvals as may be reasonably required
6 by the commissioner.

7 2. The owner or operator of every pet cemetery shall keep
8 adequate records of all purchasers of space for pet remains
9 within the grounds of such pet cemetery.

10 Sec. 12. NEW SECTION. 523J.11 **Removal of dedication of real**
11 **property.**

12 1. A dedication restricting real property for the operation
13 of a pet cemetery may only be amended or removed by order of the
14 district court of the county where the pet cemetery is located.
15 A petition for amendment or removal of dedication shall include
16 written consent by all persons who purchased or otherwise are
17 entitled to rights of disposal or rights to continuing care
18 of a pet grave in that portion of the pet cemetery for which
19 the dedication is sought to be amended or removed. If the
20 portion of the pet cemetery for which the dedication is sought
21 to be amended or removed includes pet remains, the pet remains
22 must be removed, upon the written consent of all persons who
23 purchased or are otherwise entitled to rights of disposal
24 or rights to continuing care of a pet grave, their heirs or
25 assigns, with the removal to be entirely at the cost of the
26 owner of the pet cemetery. The court, upon proof of diligent
27 efforts and as determined by the court, may dispense with the
28 written consent of any person who purchased or is otherwise
29 entitled to rights of disposal whose whereabouts, identity, or
30 heirs or assigns are unknown. If the court has dispensed with
31 any person's written consent under this section, the court may
32 make a determination as to the consideration appropriate for
33 such consent and order that the consideration be deposited with
34 the court. The consideration shall be paid to such person upon
35 appropriate proof of claim. The court shall proceed according

1 to the provisions of chapter 556 in regard to unclaimed
2 consideration.

3 2. The petition for amendment or removal of dedication may
4 additionally include an environmental audit if required by the
5 court, which shall identify any environmental problems caused
6 by the pet cemetery activity, including an identification of
7 pet disposal sites. If the environmental audit identifies any
8 environmental problem, a plan for the correction or remediation
9 of such problems shall be included, including financial, human,
10 and other resource estimates, and projected time schedules for
11 the completion of the corrective and remedial actions, with
12 the court to make any order on the petition conditional upon
13 the completion of any corrective and remedial action or upon
14 the deposit with the court of an amount of money determined
15 necessary to complete the remediation or correction.

16 Sec. 13. NEW SECTION. 523J.12 **Area requirements.**

17 A pet cemetery that commences operations on or after
18 the effective date of this Act and that provides for the
19 permanent interment of pets shall consist of not less than five
20 contiguous acres of real property in total area, inclusive
21 of any structures, facilities, or buildings situated thereon
22 and used for the business purposes of the pet cemetery. The
23 commissioner may grant a waiver of the minimum size limit based
24 on factors including the number of aboveground entombments, the
25 number of remains buried, and the nature of the surrounding
26 community. A city or municipality may adopt a local ordinance
27 that provides for an area requirement greater than five
28 contiguous acres of real property.

29 Sec. 14. NEW SECTION. 523J.13 **Maintenance fees.**

30 1. A pet cemetery owner may charge a pet owner a permanent
31 maintenance endowment fee for the care of the pet cemetery.
32 Any permanent maintenance endowment fee paid shall be placed by
33 the pet cemetery owner into a permanent maintenance endowment
34 care or similar trust fund.

35 2. In lieu of a permanent maintenance endowment fee, the

1 pet cemetery owner and a pet owner may enter into a contract
2 for care of the pet cemetery on an annual basis. The pet
3 owner shall then be charged an annual maintenance fee. Only
4 one contract for annual maintenance shall be entered into per
5 gravesite. The contract shall state specifically the amount of
6 the annual maintenance fee. The contract shall also state that
7 failure to pay the annual fee can result in the disinterment
8 of the pet.

9 a. The annual maintenance fee, billed each calendar year,
10 shall be deposited by the pet cemetery owner in the general
11 account of the pet cemetery to be used for pet cemetery
12 operation and maintenance during the succeeding years. For
13 the purposes of this section and section 523J.14, the term
14 "*pet cemetery operation and maintenance*" shall mean all costs
15 incurred to operate and maintain a pet cemetery, including
16 salaries and bonuses for employees, officers, and directors,
17 but shall not include any fines or penalties imposed on the
18 pet cemetery or its employees, officers, or directors by the
19 commissioner or other agency or court.

20 b. If the annual maintenance fee is not paid within ninety
21 days of the date due, the pet cemetery owner shall notify the
22 pet owner in writing that such fee is due and payable. If such
23 annual maintenance fee is not paid within ninety days of the
24 notice, the disposal rights or rights to continuing care of a
25 pet grave of the pet owner shall terminate.

26 c. If the annual maintenance fee is not paid within one
27 hundred eighty days of the date it is due, the disposal rights
28 of a pet owner shall terminate and the pet cemetery owner may
29 at anytime thereafter remove the pet remains and if removed
30 dispose of remains by mass cremation or mass burial.

31 d. A pet owner may prepay annual maintenance fees for any
32 number of years in advance. Prepaid annual maintenance fees
33 shall be deposited in the manner of permanent maintenance
34 endowment fees, and an annual statement shall be sent
35 reflecting the withdrawal of the annual maintenance fee and the

1 balance of prepaid annual maintenance fees remaining.

2 e. The pet cemetery owner shall maintain individual
3 records of account for each permanent maintenance endowment
4 fee and each annual maintenance fee contract pursuant to
5 section 523J.18, and shall make the records accessible to the
6 commissioner pursuant to section 523J.3.

7 Sec. 15. NEW SECTION. **523J.14 Endowment care — trust**
8 **funds.**

9 1. A pet cemetery that commenced operations prior to the
10 effective date of this Act shall establish an endowment care or
11 similar trust fund, the balance of which shall not be less than
12 twelve thousand dollars, by January 1, 2014. The commissioner
13 may grant a waiver to this requirement if an endowment care or
14 similar trust fund is established and twelve thousand dollars
15 is placed in such fund within a reasonable amount of time not
16 to exceed ten years from the effective date of this Act, and
17 if the provisions of this section will present a significant
18 financial hardship to the owner or operator.

19 2. A pet cemetery that commences operations on or after the
20 effective date of this Act shall, prior to the acceptance of
21 any moneys as permanent maintenance endowment fees or annual
22 maintenance fees, establish an endowment care or similar
23 trust fund for the permanent operation and maintenance of the
24 pet cemetery, in an amount of not less than twelve thousand
25 dollars.

26 3. The fiduciary holding such endowment care or similar
27 trust fund shall have such power to invest the moneys in the
28 fund as set forth in chapter 633. The interest earnings of
29 such an endowment care fund shall be used for the maintenance
30 of both occupied and unoccupied lots or spaces. Any remaining
31 interest may be used for costs of access roads and paths,
32 fencing, and general maintenance of the pet cemetery.

33 4. Any distribution of the original twelve thousand
34 dollar principal of such an endowment care or similar trust
35 fund shall only be upon order of the district court of the

1 county where the pet cemetery is located, for good cause, and
2 exclusively for the operation and benefit of such pet cemetery.
3 Unless such distribution of principal shall be as part of a
4 removal of dedication for the pet cemetery, the court order
5 shall additionally make adequate provision for the permanent
6 maintenance of the pet cemetery.

7 5. A pet cemetery owned and operated by a not-for-profit
8 corporation that has in excess of one million dollars in its
9 endowment care or similar trust fund may use any surplus
10 income in the trust fund above and beyond its costs for pet
11 cemetery operation and maintenance in any manner allowed by the
12 not-for-profit corporation's articles or bylaws, provided that
13 the use of such surplus does not endanger the integrity of the
14 trust fund.

15 6. A pet cemetery owned and operated by a not-for-profit
16 corporation that is a humane society may be granted a waiver
17 of the provisions of this section by the commissioner if the
18 commissioner determines that the interests of the pet owners
19 will be adequately protected and the provisions of this section
20 present a significant financial hardship to the owner.

21 7. Such trust funds are not invalid by reason of any
22 indefiniteness or uncertainty of the persons designated as
23 beneficiaries, and such trust funds shall not be invalid as
24 violating any existing rule against perpetuities.

25 Sec. 16. NEW SECTION. 523J.15 **Pet disposal forms.**

26 1. Each person who gives a veterinarian, a pet cemetery
27 owner, or pet crematorium owner a pet for disposal shall be
28 provided by the veterinarian, pet cemetery owner, or pet
29 crematorium owner with a pet disposal disclosure document, in a
30 form approved by the commissioner, which shall set forth the
31 alternative methods of pet disposal, the cost of each method of
32 pet disposal, if available, and the nature of or place in which
33 each method of disposal will be carried out. The veterinarian,
34 pet cemetery owner, or pet crematorium owner, as the case may
35 be, shall give to the person who completes the form a copy of

1 the form and retain a copy of the completed form. If the person
2 completing the form chooses to have the pet disposed of by a
3 pet cemetery or pet crematorium and makes the arrangements for
4 disposal through a veterinarian, the veterinarian shall provide
5 the person with the name, location, and telephone number of the
6 pet cemetery or pet crematorium so that the person may obtain
7 information about the pet cemetery or pet crematorium. The
8 veterinarian shall also ensure that a copy of the pet disposal
9 form accompanies the deceased pet when the deceased pet is
10 removed from the veterinarian's office.

11 2. A veterinarian or pet cemetery operator may complete a
12 pet disposal form with the oral consent of the pet owner. Such
13 oral consent shall be witnessed and a record of such consent
14 and the completed pet disposal form shall be retained in the
15 veterinarian's or pet cemetery's records. A copy of such
16 completed pet disposal form shall be sent to the pet owner.

17 3. If a pet owner is unwilling or unable to complete a pet
18 disposal form, a veterinarian may complete the pet disposal
19 form if two attempts are made to contact the pet owner. At
20 least one such attempt shall be made in writing and sent by
21 first-class mail. If the veterinarian completes the pet
22 disposal form without the consent of the pet owner, a copy
23 of the completed pet disposal form shall be retained by the
24 veterinarian along with the records of the attempts to contact
25 the pet owner.

26 4. A pet disposal form shall not be required if any of the
27 following apply:

28 a. The pet owner cannot be identified.

29 b. The pet remains originate with a municipality.

30 c. The pet is abandoned pursuant to section 162.19.

31 d. The pet is to be disposed of without charge to the pet
32 owner.

33 Sec. 17. NEW SECTION. 523J.16 Disposal — compliance.

34 A pet cemetery owner shall dispose of a pet in compliance
35 with a pet disposal form completed by a pet owner or

1 veterinarian. The pet cemetery owner shall, within ten days
2 of disposal by individual cremation or individual burial,
3 send or give a written confirmation of such disposal to the
4 pet owner or veterinarian, depending on instructions in the
5 pet disposal form, and shall attest to the method, date, and
6 place of disposal. If a pet is disposed of either through
7 mass cremation or mass burial, no written confirmation shall
8 be required. Copies of all forms shall be retained by the pet
9 cemetery owner and by the veterinarian for a period of two
10 years after disposal. All pet remains shall be buried at least
11 twelve inches below the surface of the ground, or in accordance
12 with section 167.12 in the case of a large domestic animal, or
13 otherwise disposed of in a sanitary manner.

14 Sec. 18. NEW SECTION. 523J.17 Exclusions.

15 The following pet cemeteries shall be exempt from the trust
16 fund provisions of section 566B.15, the dedication provisions
17 of section 566B.11, and the area requirement of section
18 566B.13:

- 19 1. A pet cemetery owned by a licensed veterinarian.
- 20 2. A pet cemetery located on land used in agricultural
21 production.
- 22 3. A pet cemetery that does not allow individual burials.
- 23 4. A pet cemetery that does not allow individual grave
24 markers.
- 25 5. A pet cemetery that does not charge a maintenance fee for
26 the care of pet graves.
- 27 6. A pet cemetery that does not make any representation that
28 pet graves will be cared for or that the land is dedicated.
- 29 7. A pet cemetery that buries less than five animals a
30 year, makes no representation that the pet graves will be
31 cared for or that the land is dedicated, and does not charge a
32 maintenance fee for the care of the pet graves.

33 Sec. 19. NEW SECTION. 523J.18 Duties.

- 34 1. All owners and operators of pet cemeteries shall have the
35 following duties:

1 a. To keep permanently maps and records containing the
2 specific site of each pet grave, the grave owner's last known
3 address, the date of burial, the size of such grave, the
4 contract for sale of such grave, and pet disposal forms.

5 b. To keep complete records of the names of trustees of any
6 trust accounts and complete records of all trust fund moneys.

7 c. To clearly inform customers of the option of paying
8 maintenance fees for care of pet graves, including costs and
9 benefits for permanent care for pet graves and annual care for
10 pet graves.

11 d. To cooperate with all reasonable requests of inspectors
12 appointed by the commissioner to inspect pet cemeteries and pet
13 crematoriums.

14 e. To provide notice to customers about hours that the
15 cemetery will be open to visitors to view pet graves.

16 2. The provisions of subsection 1 shall apply only to
17 individual burials.

18 Sec. 20. Section 167.1, Code 2013, is amended to read as
19 follows:

20 **167.1 Scope.**

21 This chapter shall not apply to licensed slaughterhouses, or
22 to the disposal, by ~~licensed~~ the following:

23 1. Licensed slaughterhouses, of the bodies of animals, or
24 any part thereof, slaughtered for human food.

25 2. The disposal of the remains of pets pursuant to chapter
26 566B.

27 EXPLANATION

28 This bill makes legislative findings regarding the
29 importance of the relationship of pets to humans, and the
30 protection of the pet owner from unconscionable acts on the
31 part of persons in the business of providing for the disposal
32 of the remains of deceased pets.

33 The bill provides definitions to be used in new Code
34 chapter 523J. Code section 523J.1 defines terms related to
35 the business of disposal of pet remains, such as "entombment",

1 which means the placement of a pet in a grave or tomb;
2 "inurnment", meaning the placement of pet cremains in a grave,
3 urn, or tomb; and general terms, such as "pet", meaning any
4 domestic animal that had been adapted or tamed to live in
5 intimate association with people, including, but not limited
6 to, dogs, cats, rodents, fish, birds, snakes, turtles, lizards,
7 frogs, and rabbits; and "pet cemetery", meaning any land,
8 place, structure, facility, or building provided by any
9 person for a fee, whether or not for profit, to veterinarians
10 or members of the general public for use for the permanent
11 interment or inurnment of pet remains. The businesses
12 regulated by Code chapter 523J are under the authority of the
13 commissioner of insurance.

14 New Code section 523J.2 provides that a license is required
15 for a person to engage for a fee in the business of operating a
16 pet cemetery or pet crematorium.

17 New Code section 523J.3 grants to the commissioner authority
18 to adopt rules, create forms, investigate applicants for
19 licensure, keep records of licenses issued, suspended, or
20 revoked, provide standards and an enforcement process for
21 operation of a facility, conduct inspections of premises and
22 financial audits of pet cemeteries and pet crematoriums,
23 subpoena records for an action taken pursuant to the chapter,
24 and provide procedures to protect consumers when a license to
25 operate a facility is suspended, revoked, or not renewed.

26 New Code section 523J.4 provides requirements for
27 application for licensure to conduct the business of operating
28 a pet cemetery or pet crematorium. New Code section 523J.5
29 provides for the term, the transferability, and the renewal
30 of licenses, and for a duplicate license in case of loss
31 or destruction. A licensee is also required to notify the
32 commissioner within 30 days of any change in address of the
33 place of business or the residence of a licensee.

34 New Code section 523J.6 requires a fee of \$150 for a new
35 license or the renewal of a license, and provides for a fee

1 of \$25 for a duplicate license, and \$10 for change of name or
2 address. A municipality seeking a license to operate a pet
3 cemetery or pet crematorium shall not be charged any fees.
4 The moneys derived from the fees are appropriated to the
5 commissioner for the expenses of administration, licensing, and
6 inspections conducted pursuant to the Code chapter.

7 New Code section 523J.7 provides circumstances that
8 allow the commissioner to deny a license application, and
9 circumstances under which a license can be suspended or
10 revoked. The prohibited circumstances include fraud or
11 bribery in securing a license, making any false statement of
12 material fact in the application or any certificate required
13 by the chapter, incompetence, failure to display the license,
14 violation of the provisions of the chapter, conviction of a
15 crime involving fraud, theft, perjury, or bribery, failure to
16 retain pet disposal forms, failure to comply with the duties
17 of an owner or operator of a pet cemetery or pet crematorium
18 as set out in the chapter, or conviction of a violation of
19 Code chapter 717B or Code chapter 717C regarding an injury to
20 animals. A licensee whose license has been revoked may not be
21 reinstated for five years from the date of revocation, and must
22 reapply for a license under Code section 523J.4.

23 New Code section 523J.8 requires that any license suspension
24 or revocation, or the imposition of any fine or reprimand,
25 shall not be imposed until after a hearing, and all actions
26 initiated by the commissioner are subject to contested case
27 proceedings and further review pursuant to Code chapter 17A.

28 New Code section 523J.9 provides penalties for violations
29 by a licensee, including an order to cease and desist.
30 The commissioner shall notify the attorney general if a
31 receivership is required because a licensee is insolvent or
32 has utilized trust funds for personal or business purposes
33 inconsistent with the requirements of the chapter. The
34 commissioner or the attorney general may seek an injunction
35 to restrain a licensee from engaging in conduct or practices

1 deemed a violation of the chapter or rules adopted pursuant
2 to the chapter. A licensee who persists in the violation
3 after notice to cease and desist, or after a license is
4 suspended or revoked, shall upon conviction for a first offense
5 be guilty of a serious misdemeanor. If the conviction is
6 for a subsequent offense, the person shall be guilty of an
7 aggravated misdemeanor. A serious misdemeanor is punishable
8 by confinement for no more than one year and a fine of at least
9 \$250 but not more than \$1,500. An aggravated misdemeanor is
10 punishable by confinement for no more than two years and a fine
11 of at least \$500 but not more than \$5,000.

12 New Code section 523J.10 provides for the dedication of
13 real property for pet cemetery purposes, by the filing by the
14 owner of any real property of a dedication restricting the real
15 property to use only as a pet cemetery. The owner of any such
16 pet cemetery shall keep adequate records of purchasers of space
17 for pet remains within the pet cemetery.

18 New Code section 523J.11 provides for the removal of the
19 dedication of real property as a pet cemetery by order of the
20 district court. The petition for a removal of dedication
21 shall contain written consent of all persons who purchased
22 or are otherwise entitled to rights of disposal or rights of
23 continuing care of a pet grave. If consent cannot be obtained,
24 upon proof of diligent effort, the court may dispense with the
25 consent and require appropriate consideration be deposited with
26 the court, to be paid to the person whose consent was dispensed
27 with, the personal heirs, or assigns, upon the appropriate
28 proof of claim. The petition may also require an environmental
29 audit, if required by the court, including a plan for the
30 correction or remediation of any environmental problem found,
31 financial, human, and other resource estimates, and projected
32 time schedules for completion of the corrective and remedial
33 actions. The court shall make any order on the petition
34 conditional upon the completion of any corrective and remedial
35 action or upon the deposit with the court of an amount of money

1 determined necessary for completion.

2 New Code section 523J.12 requires at least five contiguous
3 acres of real property, inclusive of structures, for a pet
4 cemetery, and provides that the commissioner may grant a waiver
5 of the minimum size limit. A city or municipality may adopt
6 an ordinance requiring more than five acres of contiguous real
7 property for the operation of a pet cemetery.

8 New Code section 523J.13 provides that maintenance fees
9 for the pet cemetery may be charged as permanent maintenance
10 endowment fees or as annual maintenance fees. A pet cemetery
11 owner must establish a trust account for the permanent
12 maintenance endowment fees. Annual fees must be billed each
13 calendar year, and upon receipt may be placed in the general
14 account of the business and used for operation and maintenance
15 costs, including salaries. If annual maintenance fees are
16 not paid within 180 days, the disposal rights of a pet owner
17 terminate, and the pet cemetery owner may remove and dispose
18 of the remains by mass cremation or mass burial. Pet owners
19 may prepay annual maintenance fees, and the prepaid fees shall
20 be deposited in the trust fund and withdrawn upon an annual
21 basis, and a statement sent to the pet owner reflecting the
22 withdrawal of the annual amount and the balance of prepaid
23 annual maintenance fees remaining. The owner shall maintain
24 individual records of account for each maintenance fee
25 contract.

26 New Code section 523J.14 provides requirements for an
27 endowment fund for each pet cemetery, in the amount of
28 \$12,000. Pet cemeteries currently in existence shall establish
29 trust accounts by January 1, 2014, or be granted a waiver by
30 the commissioner, which may extend up to 10 years from the
31 effective date of this bill. New licensees shall establish
32 the trust account prior to accepting any permanent maintenance
33 endowment fees or annual maintenance fees. The trust fund
34 moneys may be invested as set forth in Code chapter 633, with
35 the interest earnings to be used for the maintenance of both

1 occupied and unoccupied lots or spaces, and any remaining
2 interest to be used for costs of access roads, paths, fencing,
3 and general maintenance. Any distribution of the original
4 \$12,000 principal shall only occur by order of court, for good
5 cause, and exclusively for the operation and benefit of the pet
6 cemetery. A pet cemetery owned by a not-for-profit corporation
7 may distribute surplus income over million in any manner
8 allowed in the not-for-profit corporation's articles or bylaws,
9 if the use of the surplus does not endanger the integrity of
10 the trust fund. The commissioner may waive these provisions
11 for a not-for-profit corporation that is a humane society if
12 the commissioner determines that the interests of the pet
13 owners will be adequately protected and the requirements
14 would present a significant hardship to the not-for-profit
15 corporation.

16 New Code section 523J.15 requires that a pet disposal
17 form be completed for every deceased pet, which sets out the
18 alternative methods of pet disposal, the costs of each, and the
19 nature of or place each method will be carried out. The form
20 may be completed by a veterinarian or the owner of the deceased
21 pet. Provisions are made by which a veterinarian may complete
22 a form if a pet's owner is unknown, or if the pet owner refuses
23 to complete a form.

24 New Code section 523J.16 provides that disposal of pets
25 shall be in compliance with the pet disposal forms, and that,
26 within 10 days of disposal, a licensee shall give written
27 confirmation of the disposal to the pet owner or veterinarian,
28 attesting to the method, date, and place of disposal. Copies
29 of the forms shall be retained by the licensee and the
30 veterinarian for two years after the disposal. All pet remains
31 shall be buried at least 12 inches below the surface of the
32 ground or in accordance with Code section 167.12 in the case of
33 a large domestic animal.

34 New Code section 523J.17 provides exclusions from the trust
35 fund requirements for pet cemeteries that are owned by a

1 licensed veterinarian, located on ground used in agricultural
2 production, do not allow individual burials, do not allow
3 individual grave markers, do not charge a maintenance fee for
4 the care of pet graves, do not make any representations that
5 pet graves will be cared for or that the land is dedicated, and
6 bury less than five animals a year and make no representations
7 that pet graves will be cared for or that the land is
8 dedicated, and do not charge a maintenance fee.

9 New Code section 523J.18 provides that owners and operators
10 of pet cemeteries must keep maps and records of specific sites
11 of each pet grave, the grave owner's last known address, the
12 date of the burial, the size of the grave, the contract for
13 sale of the grave and the pet disposal forms, and complete
14 records of trust accounts. A pet cemetery owner must also
15 clearly inform customers of the option of paying maintenance
16 fees for care of pet graves, including costs and benefits for
17 permanent endowment and annual care maintenance, and provide
18 customers with the hours of business the cemetery will be open
19 to visitors to view pet graves. The section also requires
20 cooperation by the pet cemetery or pet crematorium owners with
21 all reasonable requests of inspectors.

22 Finally, the bill amends Code section 167.1 to add the
23 disposal of the remains of pets pursuant to Code chapter 566B
24 to the exclusion from the provisions of Code chapter 167, the
25 use and disposal of dead animals.